

- 5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SESSIONS OF TEXAS, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES.**

7

**AMENDMENT TO H.R. 10**  
**OFFERED BY MR. SESSIONS OF TEXAS**

At the end of title II of the bill (page 235, after line 21), insert the following new subtitle:

**1 Subtitle J—Prevention of Terrorist**  
**2 Access to Destructive Weapons**  
**3 Act of 2004**

**4 SECTION 2211. SHORT TITLE.**

**5** This subtitle may be cited as the “Prevention of Ter-  
**6** rorist Access to Destructive Weapons Act of 2004”.

**7 SEC. 2212. FINDINGS AND PURPOSE.**

**8** (a) FINDINGS.—Congress finds the following:

**9** (1) The criminal use of man-portable air de-  
**10** fense systems (MANPADS) presents a serious  
**11** threat to civil aviation worldwide, especially in the  
**12** hands of terrorists or foreign states that harbor  
**13** them.

**14** (2) Atomic weapons or weapons designed to re-  
**15** lease radiation (“dirty bombs”) could be used by ter-  
**16** rorists to inflict enormous loss of life and damage to  
**17** property and the environment.

**18** (3) Variola virus is the causative agent of  
**19** smallpox, an extremely serious, contagious, and



1 sometimes fatal disease. Variola virus is classified as  
2 a Category A agent by the Centers for Disease Con-  
3 trol and Prevention, meaning that it is believed to  
4 pose the greatest potential threat for adverse public  
5 health impact and has a moderate to high potential  
6 for large-scale dissemination. The last case of small-  
7 pox in the United States was in 1949. The last nat-  
8 urally occurring case in the world was in Somalia in  
9 1977. Although smallpox has been officially eradi-  
10 cated after a successful worldwide vaccination pro-  
11 gram, there remain two official repositories of the  
12 variola virus for research purposes. Because it is so  
13 dangerous, the variola virus may appeal to terror-  
14 ists.

15 (4) The use, or even the threatened use, of  
16 MANPADS, atomic or radiological weapons, or the  
17 variola virus, against the United States, its allies, or  
18 its people, poses a grave risk to the security, foreign  
19 policy, economy, and environment of the United  
20 States. Accordingly, the United States has a compel-  
21 ling national security interest in preventing unlawful  
22 activities that lead to the proliferation or spread of  
23 such items, including their unauthorized production,  
24 construction, acquisition, transfer, possession, im-  
25 port, or export. All of these activities markedly in-



1       crease the chances that such items will be obtained  
2       by terrorist organizations or rogue states, which  
3       could use them to attack the United States, its al-  
4       lies, or United States nationals or corporations.

5       (5) There is no legitimate reason for a private  
6       individual or company, absent explicit government  
7       authorization, to produce, construct, otherwise ac-  
8       quire, transfer, receive, possess, import, export, or  
9       use MANPADS, atomic or radiological weapons, or  
10      the variola virus.

11      (b) PURPOSE.—The purpose of this subtitle is to  
12      combat the potential use of weapons that have the ability  
13      to cause widespread harm to United States persons and  
14      the United States economy (and that have no legitimate  
15      private use) and to threaten or harm the national security  
16      or foreign relations of the United States.

17      **SEC. 2213. MISSILE SYSTEMS DESIGNED TO DESTROY AIR-**  
18                                      **CRAFT.**

19      Chapter 113B of title 18, United States Code, is  
20      amended by adding after section 2332f the following:

21      **“§ 2332g. Missile systems designed to destroy aircraft**

22                      **“(a) UNLAWFUL CONDUCT.—**

23                      **“(1) IN GENERAL.—**Except as provided in para-  
24                      graph (3), it shall be unlawful for any person to  
25                      knowingly produce, construct, otherwise acquire,



1 transfer directly or indirectly, receive, possess, im-  
2 port, export, or use, or possess and threaten to  
3 use—

4 “(A) an explosive or incendiary rocket or  
5 missile that is guided by any system designed to  
6 enable the rocket or missile to—

7 “(i) seek or proceed toward energy ra-  
8 diated or reflected from an aircraft or to-  
9 ward an image locating an aircraft; or

10 “(ii) otherwise direct or guide the  
11 rocket or missile to an aircraft;

12 “(B) any device designed or intended to  
13 launch or guide a rocket or missile described in  
14 subparagraph (A); or

15 “(C) any part or combination of parts de-  
16 signed or redesigned for use in assembling or  
17 fabricating a rocket, missile, or device described  
18 in subparagraph (A) or (B).

19 “(2) NONWEAPON.—Paragraph (1)(A) does not  
20 apply to any device that is neither designed nor re-  
21 designed for use as a weapon.

22 “(3) EXCLUDED CONDUCT.—This subsection  
23 does not apply with respect to—

24 “(A) conduct by or under the authority of  
25 the United States or any department or agency



1           thereof or of a State or any department or  
2           agency thereof; or

3           “(B) conduct pursuant to the terms of a  
4           contract with the United States or any depart-  
5           ment or agency thereof or with a State or any  
6           department or agency thereof.

7           “(b) JURISDICTION.—Conduct prohibited by sub-  
8           section (a) is within the jurisdiction of the United States  
9           if—

10           “(1) the offense occurs in or affects interstate  
11           or foreign commerce;

12           “(2) the offense occurs outside of the United  
13           States and is committed by a national of the United  
14           States;

15           “(3) the offense is committed against a national  
16           of the United States while the national is outside the  
17           United States;

18           “(4) the offense is committed against any prop-  
19           erty that is owned, leased, or used by the United  
20           States or by any department or agency of the United  
21           States, whether the property is within or outside the  
22           United States; or

23           “(5) an offender aids or abets any person over  
24           whom jurisdiction exists under this subsection in  
25           committing an offense under this section or con-



1       spires with any person over whom jurisdiction exists  
2       under this subsection to commit an offense under  
3       this section.

4       “(c) CRIMINAL PENALTIES.—

5               “(1) IN GENERAL.—Any person who violates, or  
6       attempts or conspires to violate, subsection (a) shall  
7       be fined not more than \$2,000,000 and shall be sen-  
8       tenced to a term of imprisonment not less than 30  
9       years or to imprisonment for life.

10              “(2) LIFE IMPRISONMENT.—Any person who,  
11       in the course of a violation of subsection (a), uses,  
12       attempts or conspires to use, or possesses and  
13       threatens to use, any item or items described in sub-  
14       section (a), shall be fined not more than \$2,000,000  
15       and imprisoned for life.

16              “(3) DEATH PENALTY.—If the death of another  
17       results from a person’s violation of subsection (a),  
18       the person shall be fined not more than \$2,000,000  
19       and punished by death or imprisoned for life.

20              “(d) DEFINITION.—As used in this section, the term  
21       ‘aircraft’ has the definition set forth in section  
22       40102(a)(6) of title 49, United States Code.”.

23       **SEC. 2214. ATOMIC WEAPONS.**

24              “(a) PROHIBITIONS.—Section 92 of the Atomic En-  
25       ergy Act of 1954 (42 U.S.C. 2122) is amended by—

1 (1) inserting at the beginning "a." before "It";

2 (2) inserting "knowingly" after "for any person  
3 to";

4 (3) striking "or" before "export";

5 (4) striking "transfer or receive in interstate or  
6 foreign commerce," before "manufacture";

7 (5) inserting "receive," after "acquire,";

8 (6) inserting " , or use, or possess and threaten  
9 to use," before "any atomic weapon";

10 (7) inserting at the end the following:

11 "b. Conduct prohibited by subsection a. is within the  
12 jurisdiction of the United States if—

13 "(1) the offense occurs in or affects interstate  
14 or foreign commerce; the offense occurs outside of  
15 the United States and is committed by a national of  
16 the United States;

17 "(2) the offense is committed against a national  
18 of the United States while the national is outside the  
19 United States;

20 "(3) the offense is committed against any prop-  
21 erty that is owned, leased, or used by the United  
22 States or by any department or agency of the United  
23 States, whether the property is within or outside the  
24 United States; or





1           “(4) an offender aids or abets any person over  
2       whom jurisdiction exists under this subsection in  
3       committing an offense under this section or con-  
4       spires with any person over whom jurisdiction exists  
5       under this subsection to commit an offense under  
6       this section.”.

7       (b) VIOLATIONS.—Section 222 of the Atomic Energy  
8       Act of 1954 (42 U.S.C. 2272) is amended by—

9           (1) inserting at the beginning “a.” before  
10       “Whoever”;

11          (2) striking “, 92,”; and

12          (3) inserting at the end the following:

13       “b. Any person who violates, or attempts or conspires  
14       to violate, section 92 shall be fined not more than  
15       \$2,000,000 and sentenced to a term of imprisonment not  
16       less than 30 years or to imprisonment for life. Any person  
17       who, in the course of a violation of section 92, uses, at-  
18       tempts or conspires to use, or possesses and threatens to  
19       use, any atomic weapon shall be fined not more than  
20       \$2,000,000 and imprisoned for life. If the death of an-  
21       other results from a person’s violation of section 92, the  
22       person shall be fined not more than \$2,000,000 and pun-  
23       ished by death or imprisoned for life.”.



1 **SEC. 2215. RADIOLOGICAL DISPERSAL DEVICES.**

2 Chapter 113B of title 18, United States Code, is  
3 amended by adding after section 2332g the following:

4 **“§ 2332h. Radiological dispersal devices**

5 **“(a) UNLAWFUL CONDUCT.—**

6 **“(1) IN GENERAL.—**Except as provided in para-  
7 graph (2), it shall be unlawful for any person to  
8 knowingly produce, construct, otherwise acquire,  
9 transfer directly or indirectly, receive, possess, im-  
10 port, export, or use, or possess and threaten to  
11 use—

12 **“(A)** any weapon that is designed or in-  
13 tended to release radiation or radioactivity at a  
14 level dangerous to human life; or

15 **“(B)** or any device or other object that is  
16 capable of and designed or intended to endan-  
17 ger human life through the release of radiation  
18 or radioactivity.

19 **“(2) EXCEPTION.—**This subsection does not  
20 apply with respect to—

21 **“(A)** conduct by or under the authority of  
22 the United States or any department or agency  
23 thereof; or

24 **“(B)** conduct pursuant to the terms of a  
25 contract with the United States or any depart-  
26 ment or agency thereof.

1       “(b) JURISDICTION.—Conduct prohibited by sub-  
2 section (a) is within the jurisdiction of the United States  
3 if—

4           “(1) the offense occurs in or affects interstate  
5 or foreign commerce;

6           “(2) the offense occurs outside of the United  
7 States and is committed by a national of the United  
8 States;

9           “(3) the offense is committed against a national  
10 of the United States while the national is outside the  
11 United States;

12           “(4) the offense is committed against any prop-  
13 erty that is owned, leased, or used by the United  
14 States or by any department or agency of the United  
15 States, whether the property is within or outside the  
16 United States; or

17           “(5) an offender aids or abets any person over  
18 whom jurisdiction exists under this subsection in  
19 committing an offense under this section or con-  
20 spires with any person over whom jurisdiction exists  
21 under this subsection to commit an offense under  
22 this section.

23       “(c) CRIMINAL PENALTIES.—

24           “(1) IN GENERAL.—Any person who violates, or  
25 attempts or conspires to violate, subsection (a) shall



1 be fined not more than \$2,000,000 and shall sen-  
2 tenced to a term of imprisonment not less than 30  
3 years or to imprisonment for life.

4 “(2) LIFE IMPRISONMENT.—Any person who,  
5 in the course of a violation of subsection (a), uses,  
6 attempts or conspires to use, or possesses and  
7 threatens to use, any item or items described in sub-  
8 section (a), shall be fined not more than \$2,000,000  
9 and imprisoned for life.

10 “(3) DEATH PENALTY.—If the death of another  
11 results from a person’s violation of subsection (a),  
12 the person shall be fined not more than \$2,000,000  
13 and punished by death or imprisoned for life.”.

14 **SEC. 2216. VARIOLA VIRUS.**

15 Chapter 10 of title 18, United States Code, is amend-  
16 ed by inserting after section 175b the following:

17 **“§ 175c. Variola virus**

18 **“(a) UNLAWFUL CONDUCT.—**

19 **“(1) IN GENERAL.—**Except as provided in para-  
20 graph (2), it shall be unlawful for any person to  
21 knowingly produce, engineer, synthesize, acquire,  
22 transfer directly or indirectly, receive, possess, im-  
23 port, export, or use, or possess and threaten to use,  
24 variola virus.



1           “(2) EXCEPTION.—This subsection does not  
2           apply to conduct by, or under the authority of, the  
3           Secretary of Health and Human Services.

4           “(b) JURISDICTION.—Conduct prohibited by sub-  
5           section (a) is within the jurisdiction of the United States  
6           if—

7           “(1) the offense occurs in or affects interstate  
8           or foreign commerce;

9           “(2) the offense occurs outside of the United  
10          States and is committed by a national of the United  
11          States;

12          “(3) the offense is committed against a national  
13          of the United States while the national is outside the  
14          United States;

15          “(4) the offense is committed against any prop-  
16          erty that is owned, leased, or used by the United  
17          States or by any department or agency of the United  
18          States, whether the property is within or outside the  
19          United States; or

20          “(5) an offender aids or abets any person over  
21          whom jurisdiction exists under this subsection in  
22          committing an offense under this section or con-  
23          spires with any person over whom jurisdiction exists  
24          under this subsection to commit an offense under  
25          this section.



1       “(c) CRIMINAL PENALTIES.—

2               “(1) IN GENERAL.—Any person who violates, or  
3       attempts or conspires to violate, subsection (a) shall  
4       be fined not more than \$2,000,000 and shall be sen-  
5       tenced to a term of imprisonment not less than 30  
6       years or to imprisonment for life.

7               “(2) LIFE IMPRISONMENT.—Any person who,  
8       in the course of a violation of subsection (a), uses,  
9       attempts or conspires to use, or possesses and  
10      threatens to use, any item or items described in sub-  
11      section (a), shall be fined not more than \$2,000,000  
12      and imprisoned for life.

13              “(3) DEATH PENALTY.—If the death of another  
14      results from a person’s violation of subsection (a),  
15      the person shall be fined not more than \$2,000,000  
16      and punished by death or imprisoned for life.

17              “(d) DEFINITION.—As used in this section, the term  
18      ‘variola virus’ means a virus that can cause human small-  
19      pox or any derivative of the variola major virus that con-  
20      tains more than 85 percent of the gene sequence of the  
21      variola major virus or the variola minor virus.”.

22      **SEC. 2217. INTERCEPTION OF COMMUNICATIONS.**

23              Section 2516(1) of title 18, United States Code, is  
24      amended—



1 (1) in paragraph (a), by inserting “2122 and”  
2 after “sections”;

3 (2) in paragraph (c), by inserting “section 175c  
4 (relating to variola virus),” after “section 175 (relat-  
5 ing to biological weapons),”; and

6 (3) in paragraph (q), by inserting “2332g,  
7 2332h,” after “2332f.”

8 **SEC. 2218. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF**  
9 **TITLE 18, UNITED STATES CODE.**

10 Section 2332b(g)(5)(B) of title 18, United States  
11 Code, is amended—

12 (1) in clause (i)—

13 (A) by inserting before “2339 (relating to  
14 harboring terrorists)” the following: “2332g  
15 (relating to missile systems designed to destroy  
16 aircraft), 2332h (relating to radiological dis-  
17 persal devices),”; and

18 (B) by inserting “175c (relating to variola  
19 virus),” after “175 or 175b (relating to biologi-  
20 cal weapons),”; and

21 (2) in clause (ii)—

22 (A) by striking “section” and inserting  
23 “sections 92 (relating to prohibitions governing  
24 atomic weapons) or”; and

25 (B) by inserting “2122 or” before “2284”.



1 **SEC. 2219. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE**  
2 **18, UNITED STATES CODE.**

3 Section 1956(c)(7)(D), title 18, United States Code,  
4 is amended—

5 (1) by inserting after “section 152 (relating to  
6 concealment of assets; false oaths and claims; brib-  
7 ery),” the following: “section 175c (relating to the  
8 variola virus),”;

9 (2) by inserting after “section 2332(b) (relating  
10 to international terrorist acts transcending national  
11 boundaries),” the following: “section 2332g (relating  
12 to missile systems designed to destroy aircraft), sec-  
13 tion 2332h (relating to radiological dispersal de-  
14 vices),”; and

15 (3) striking “or” after “any felony violation of  
16 the Foreign Agents Registration Act of 1938,” and  
17 after “any felony violation of the Foreign Corrupt  
18 Practices Act”, striking “;” and inserting “, or sec-  
19 tion 92 of the Atomic Energy Act of 1954 (42  
20 U.S.C. 2122) (relating to prohibitions governing  
21 atomic weapons)”.

22 **SEC. 2220. EXPORT LICENSING PROCESS.**

23 Section 38(g)(1)(A) of the Arms Export Control Act  
24 (22 U.S.C. 2778) is amended—

25 (1) by striking “or” before “(xi)”; and





1           (2) by inserting after clause (xi) the following:  
2           “or (xii) section 3, 4, 5, and 6 of the Prevention of  
3           Terrorist Access to Destructive Weapons Act of  
4           2004, relating to missile systems designed to destroy  
5           aircraft (18 U.S.C. 2332g), prohibitions governing  
6           atomic weapons (42 U.S.C. 2122), radiological dis-  
7           persal devices (18 U.S.C. 2332h), and variola virus  
8           (18 U.S.C. 175b);”.

9   **SEC. 2221. CLERICAL AMENDMENTS.**

10          (a) CHAPTER 113B.—The table of sections for chap-  
11          ter 113B of title 18, United States Code, is amended by  
12          inserting the following after the item for section 2332f:

          “2332g. Missile systems designed to destroy aircraft.  
          “2332h. Radiological dispersal devices.”.

13          (b) CHAPTER 10.—The table of sections for chapter  
14          10 of title 18, United States Code, is amended by inserting  
15          the following item after the item for section 175b:

          “175c. Variola virus.”.

